

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CHRISTINA WILKINS, KATHERYN E.
WILKINS and CLIFFORD WILKINS,

CASE NO. _____

Plaintiffs,

vs.

NOTICE OF REMOVAL

SMITHS MEDICAL INTERNATIONAL, LTD.
(improperly plead as "Smiths Medical");
SMITHS MEDICAL ASD, INC. f/k/a
PORTEX, INC.; and JOHN DOE(S)
(1-100), a fictitious name for a presently
unknown and/or unidentified
individual(s)/entity(ies),

Defendants.

TO: The Honorable Judges of the United States District Court,
District of New Jersey, Camden Division

Defendants, Smiths Medical International, Ltd. and Smiths Medical ASD, Inc.
f/k/a Portex, Inc. (collectively "Smiths Medical"), hereby files this Notice of Removal
pursuant to 28 U.S.C. §1441(a) and 28 U.S.C. §1446(a), and in support thereof states and
alleges as follows:

1. Plaintiffs are citizens and residents of the State of New Jersey.

2. Smiths Medical International, Ltd. is an English corporation with its principal place of business located in England. Smiths Medical ASD, Inc. is a Delaware corporation with its principal place of business located in Massachusetts. Smiths Medical ASD was formerly known as Portex, Inc.

3. On or about February 13, 2008, the Plaintiffs filed their Complaint in the New Jersey Superior Court, Camden County - Law Division, under Docket Number CAM-L-0888-08. Plaintiffs' Complaint is now pending therein. (This action is hereinafter referred to as the "State Court Action.")

4. Smiths Medical received a copy of the Complaint for the State Court Action by U.S. Mail on or about March 4, 2008. Smiths Medical is unaware of any efforts made by Plaintiffs to effect personal service as required under New Jersey's R. 4:4-3(a). A true and correct copy of Plaintiffs' Complaint is attached hereto as Exhibit "A."

5. Plaintiffs inaccurately named "Smiths Medical," Portex, Inc. and "John Doe(s) (1-100)" as defendants in this action. In fact, the only proper defendants to this action are Smiths Medical International, Ltd., the subject device's designer and manufacturer, and Smiths Medical ASD, Inc. f/k/a Portex, Inc., the subject device's distributor. Plaintiffs' Complaint does not make any specific allegations directed at unknown Doe defendant. Rather Plaintiffs' claims are strictly based on products liability. Since Smiths Medical International, Ltd. and Smiths Medical ASD, Inc. are the manufacturer and distributor, respectively, of the Blue Line Tracheostomy Tube, John Doe(s) 1-100 are nominal parties whose residency should not be considered for removal purposes.]

6. This action is a civil suit for damages arising out of Plaintiff Christina Wilkins's alleged injuries resulting from alleged product defects in Smiths Medical's Blue Line Tracheostomy Tube on or about May 21, 2006, as more fully appears in the Complaint. Plaintiffs Katheryn and Clifford Wilkins claim injuries resulting from their alleged loss of services from Christine Wilkins, as well as their observation of Christine Wilkins's alleged injuries and symptoms at or around the time of the subject incident and through surgery and beyond.

7. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a)(1) and removal of this action is proper pursuant to 28 U.S.C. §§ 1441(b) and 1446(b).

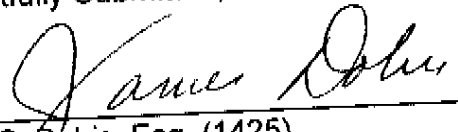
8. The amount in controversy is over \$75,000 as indicated by Plaintiffs' Complaint, First Count ¶ 4, alleging that Christina Wilkins has or will incur "severe, consequential, significant and/or permanent personal injuries, pain and suffering, disabilities, emotions distress, medical bills and costs," Second Count ¶ 3 and Fourth Count ¶ 4, alleging that Katheryn and Clifford Wilkins have "suffered, and will in the future suffer, the loss of special services of [their] daughter; has been, and will be, required to provide special care and services to her; and, has incurred and will incur costs and expenses in [their] endeavor to help cure [their] daughter of her injuries," and Third Count ¶ 3 and Fifth Count ¶ 5, alleging that Katheryn and Clifford Wilkins have "sustained severe, consequential, significant and/or permanent personal injuries, extreme emotional distress, pain and suffering, extreme emotional distress [sic], medical bills and costs."

9. Although Plaintiffs' service of process was inadequate under the New Jersey Rules, this Notice is filed with this Court within thirty (30) days of Smiths Medical's receipt by mail of the Complaint.

WHEREFORE, Smiths Medical International, Ltd. and Smiths Medical ASD, Inc. hereby notify all interested parties that this action is removed from the New Jersey Superior Court, Camden County - Law Division, to this Court for all future proceedings and trial.

DATED: March 27, 2008

Respectfully Submitted,



James S. Dobis, Esq. (1425)
Dobis, Russell & Peterson, P.C.
326 South Livingston Avenue
Livingston, NJ 07039
(973) 740-2474

and

Michelle R. Gilboe
Shane V. Bohnen
BOWMAN AND BROOKE LLP
150 South Fifth Street, Suite 3000
Minneapolis, MN 55402
(612) 339-8682

ATTORNEYS FOR
DEFENDANTS, SMITHS MEDICAL
INTERNATIONAL, LTD. AND SMITHS
MEDICAL ASD, INC.

EXHIBIT A

CIVIL CASE INFORMATION STATEMENT (CIS)

Use for Initial Law Division

Civil Part pleadings (not motions) under Rule 4:5-1
Pleading will be rejected for filing, under Rule 1:5-6(c),
if information above the black bar is not completed or
if attorney's signature is not affixed.

FOR USE BY CLERK'S OFFICE ONLY

PAYMENT TYPE: CK CG CA

CHG/CK NO.

AMOUNT:

OVERPAYMENT:

BATCH NUMBER:

ATTORNEY/PRO SE NAME

Michael J. Glassman, Esquire

TELEPHONE NUMBER

(856) 784-9222

COUNTY OF VENUE

Camden

DOCKET NUMBER (When available)

CAM-L-0892-08

DOCUMENT TYPE

Complaint

JURY DEMAND

☒ YES ☐ NO

FIRM NAME (If applicable)

Michael J. Glassman & Associates, LLC

OFFICE ADDRESS

Laurelwood Corporate Center, Suite 140
1103 Laurel Oak Road
Voorhees, New Jersey 08043

NAME OF PARTY (e.g., John Doe, Plaintiff)

CHRISTINA WILKINS, KATHERYN
E. WILKINS, and CLIFFORD
WILKINS, Plaintiffs

CAPTION

CHRISTINA WILKINS, KATHERYN E. WILKINS, and CLIFFORD
WILKINS v. SMITHS MEDICAL; PORTEX, INC.; and JOHN DOE(S)(1-
100)

CASE TYPE NUMBER

(See reverse side for listing)

606

IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☒ NO

IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING
YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.

RELATED CASES PENDING?

☐ YES ☒ NO

IF YES, LIST DOCKET NUMBERS

DO YOU ANTICIPATE ADDING
ANY PARTIES (arising out of
same transaction or occurrence)?

☒ YES ☐ NO

NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN

☐ NONE
☒ UNKNOWN

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

DO PARTIES HAVE A CURRENT,
PAST OR RECURRENT
RELATIONSHIP? ☐ YES ☒ NO

IF YES, IS THAT
RELATIONSHIP☐EMPLOYER-EMPLOYEE
FAMILIAL☐ FRIEND/NEIGHBOR
☐ BUSINESS

DOES THE STATUTE GOVERNING THIS
CASE PROVIDE FOR PAYMENT OF FEES
BY THE LOSING PARTY?

☐ YES ☒ NO

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED
DISPOSITION



DO YOU OR YOUR CLIENT NEED ANY
DISABILITY ACCOMMODATIONS?

☐ YES ☒ NO

IF YES, PLEASE IDENTIFY THE
REQUESTED ACCOMMODATION

WILL AN INTERPRETER BE NEEDED?

☐ YES ☒ NO

IF YES, FOR WHAT LANGUAGE.

ATTORNEY SIGNATURE



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4.5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I — 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (INCLUDING DECLARATORY JUDGMENT ACTIONS)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)
- 999 OTHER (Briefly describe nature of action)

Track II — 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603 AUTO NEGLIGENCE — PERSONAL INJURY
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE — PROPERTY DAMAGE
- 699 TORT — OTHER

Track III — 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV — Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Mass Tort (Track IV)

- | | |
|---------------------------------------|--------------------------------|
| 241 TOBACCO | 274 RISPERDAL/SEROQUEL/ZYPREXA |
| 248 CIBA GEIGY | 275 ORTHO EVRA |
| 264 PPA | 276 DEPO-PROVERA |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 601 ASBESTOS |
| 271 ACCUTANE | 619 VIOXX |
| 272 BEXTRA/CELEBREX | |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category:

☐ Verbal Threshold

☐ Putative Class Action

☐ Title 59

MICHAEL J. GLASSMAN & ASSOCIATES, LLC

By: Michael J. Glassman, Esquire
Laurelwood Corporate Center
1103 Laurel Oak Road, Suite 140
Voorhees, New Jersey 08043-4318
(856) 784-9222
ATTORNEYS FOR PLAINTIFF

2008 MAR 31 PM 4:32

**CHRISTINA WILKINS, KATHERYN E. WILKINS,
and CLIFFORD WILKINS,**

Plaintiffs;

v.

**SMITHS MEDICAL; PORTEX, INC.; and JOHN
DOE(S)(1-100),** a fictitious name for a
presently unknown and/or unidentified
individual(s)/entity(ies).

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
CAMDEN COUNTY

DOCKET NO. CAM-L- 0888 -08

Civil Action

COMPLAINT

Plaintiffs, CHRISTINA WILKINS, KATHERYN E. WILKINS and CLIFFORD WILKINS, being of full age, residing at 31 Mary Ellen Lane, Erial, New Jersey 08081, by way of Complaint state as follows:

COUNT ONE

1. On or about May 21, 2006, the PLAINTIFF, CHRISTINA WILKINS (date of birth: 03/10/1989), was a consumer/user of a product known as a "Blue line Tracheostomy Tube".

2. Said product was designed, manufactured and distributed by the DEFENDANTS, SMITHS MEDICAL; PORTEX, INC.; and/or, JOHN DOE(S)(1-100), a fictitious name for a presently unknown and/or unidentified entity(ies)/individual(s).

MICHAEL J.
GLASSMAN &
ASSOCIATES,
LLC
ATTORNEYS-AT-LAW

3. On the aforesaid date, an adverse event occurred wherein a portion of the tracheostomy tube system within PLAINTIFF'S body broke off or otherwise separated from the remainder of the system and migrated through PLAINTIFF's body.

4. As a direct and proximate result of the accident, PLAINTIFF CHRISTINA WILKINS has incurred, is incurring and/or shall incur severe, consequential, significant and/or permanent personal injuries, pain and suffering, disabilities, emotional distress, medical bills and costs.

5. In addition, the PLAINTIFF has been, and shall be, restricted and/or prevented from pursuing her usual activities.

6. The aforesaid accident, injuries and damages were directly and proximately caused by the tracheostomy tube system which PLAINTIFF was using, and/or its component parts, and the DEFENDANT(S) are liable under products liability theories including, but not limited to, N.J.S.A. 2A:58(c)(1), et seq., in that, among other reasons, said product was defective, dangerous and/or not reasonably fit, suitable or safe for its intended and foreseeable purpose(s), and/or was defectively designed and/or manufactured and/or failed to contain adequate warning or instructions and/or was inadequate with improper post-sale or distribution instructions and/or warnings and/or improper failure to recall and was further defective and improper.

WHEREFORE, PLAINTIFF CHRISTINA WILKINS hereby demands judgment against DEFENDANTS SMITHS MEDICAL; PORTEX, INC.; and/or, JOHN DOE(S)(1-100), individually, jointly, severally and in the alternative, for damages, interest, costs and for such other legal and equitable relief as may seem just and proper to the Court.

MICHAEL J.
GLASSMAN &
ASSOCIATES,
LLC
ATTORNEYS-AT-LAW

COUNT TWO

1. PLAINTIFF KATHERYN E. WILKINS hereby repeats and incorporates by reference the allegations of COUNT ONE as if they were set forth here at length.

2. PLAINTIFF KATHERYN E. WILKINS is the mother of PLAINTIFF CHRISTINA WILKINS.

3. As a result of the injuries and damages suffered by her daughter as aforesaid, PLAINTIFF KATHERYN E. WILKINS has suffered, and will in the future suffer, the loss of the usual and special services of her daughter; has been, and will be, required to provide special care and services to her; and, has incurred and will incur costs and expenses in her endeavor to help cure her daughter of her injuries.

WHEREFORE, PLAINTIFF KATHERYN E. WILKINS, individually, and as the parent and natural guardian of PLAINTIFF CHRISTINA WILKINS hereby demands judgment be entered in her favor against DEFENDANTS SMITHS MEDICAL; PORTEX, INC.; and/or, JOHN DOE(S)(1-100), individually, jointly, severally and in the alternative, for damages, interest, costs and for such other legal and equitable relief as may seem just and proper to the Court.

COUNT THREE

1. PLAINTIFF KATHERYN E. WILKINS hereby repeats and incorporates by reference the allegations of the COUNTS ONE and TWO as if they were set forth here at length.

MICHAEL J.
GLASSMAN &
ASSOCIATES,
LLC
ATTORNEYS-AT-LAW

2. PLAINTIFF KATHERYN E. WILKINS was present with and observed CHRISTINA WILKINS injuries and symptoms from the initiation of the aforesaid adverse event, through surgery and beyond.

3. As a result of the aforesaid event and its consequences to PLAINTIFF CHRISTINA WILKINS, PLAINTIFF KATHERYN E. WILKINS has sustained severe, consequential, significant and/or permanent personal injuries, extreme emotional distress, pain and suffering, extreme emotional distress, medical bills and costs.

WHEREFORE, PLAINTIFF KATHERYN E. WILKINS, individually, and as the parent and natural guardian of PLAINTIFF CHRISTINA WILKINS hereby demands judgment be entered in her favor against DEFENDANTS SMITHS MEDICAL; PORTEX, INC.; and/or, JOHN DOE(S)(1-100), individually, jointly, severally and in the alternative, for damages, interest, costs and for such other legal and equitable relief as may seem just and proper to the Court.

COUNT FOUR

1. PLAINTIFF CLIFFORD WILKINS hereby repeats and incorporates by reference the allegations of COUNT ONE as if they were set forth here at length.

2. PLAINTIFF CLIFFORD WILKINS is the father and natural guardian of PLAINTIFF CHRISTINA WILKINS.

3. As a result of the injuries and damages suffered by her daughter as aforesaid, PLAINTIFF CLIFFORD WILKINS has suffered, and will in the future suffer, the loss of the usual and special services of his daughter; has been, and will be, required to provide special care and services to her; and, has incurred and will incur costs and expenses in her endeavor to help cure his daughter of her injuries.

MICHAEL J.
GLASMAN &
ASSOCIATES,
LLC
ATTORNEYS-AT-LAW

WHEREFORE, PLAINTIFF CLIFFORD WILKINS, individually, and as the parent and natural guardian of PLAINTIFF CHRISTINA WILKINS hereby demands judgment be entered in her favor against DEFENDANTS SMITHS MEDICAL; PORTEX, INC.; and/or, JOHN DOE(S)(1-100), individually, jointly, severally and in the alternative, for damages, interest, costs and for such other legal and equitable relief as may seem just and proper to the Court.

COUNT FIVE

1. PLAINTIFF CLIFFORD WILKINS hereby repeats and incorporates by reference the allegations of COUNTS ONE AND FOUR as if they were set forth here at length.

2. PLAINTIFF CLIFFORD WILKINS learned of CHRISTINA WILKINS' condition shortly after the initiation of the adverse event, and he promptly attended to her and continually observed her injured condition and circumstances.

3. As a result of the aforesaid event and its consequences to PLAINTIFF CHRISTINA WILKINS, PLAINTIFF CLIFFORD WILKINS has sustained has sustained severe, consequential, significant and/or permanent personal injuries, extreme emotional distress, pain and suffering, extreme emotional distress, medical bills and costs.

WHEREFORE, PLAINTIFF CLIFFORD WILKINS, individually, and as the parent and natural guardian of PLAINTIFF CHRISTINA WILKINS hereby demands judgment be entered in his favor against DEFENDANTS SMITHS MEDICAL; PORTEX, INC.; and/or, JOHN DOE(S)(1-100), individually, jointly, severally and in the alternative, for damages, interest, costs and for such other legal and equitable relief as may seem just and proper to the Court.

MICHAEL J.
GLASSMAN &
ASSOCIATES,
LLC
ATTORNEYS-AT-LAW

JURY DEMAND

The PLAINTIFFS hereby demand a trial by jury.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:25-4, notice is given that MICHAEL J. GLASSMAN, ESQUIRE, is hereby designated as trial counsel.

DEMAND FOR DISCOVERY

Pursuant to R. 4:17-1(b), demand is hereby made for each DEFENDANT to provide answers to Form C and Form C(4) Uniform Interrogatories of Appendix II of the New Jersey Court Rules.

CERTIFICATION

This is to certify that this matter is not the subject of any other pending action in any court, or of any pending arbitration proceeding and that none is contemplated. There are no other presently known parties who should be joined as parties to this action.

MICHAEL J. GLASSMAN & ASSOCIATES, LLC
ATTORNEYS FOR THE PLAINTIFFS

By: 

MICHAEL J. GLASSMAN, ESQUIRE

Dated: February 13, 2008

MICHAEL J.
GLASSMAN &
ASSOCIATES,
LLC
ATTORNEYS-AT-LAW